

1 BEFORE THE
2 DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY
3

4 IN THE MATTER OF:

5 Kenneth Wayne Long, Vikki Len Long and

6 Tammy Ann Long

7 PROPERTY OWNERS

8 AND

9 Melvin Harris and Judy Harris,

10 OPERATOR

11 DBA: Brandt Road Waste Tire Site

12 TPID NO: 1528927

13 ASSESSOR PARCEL NO: 103-010-38-5

Cleanup and Abatement

Order: No. 2010-010985-CAO

Public Resources Code

section 42845

14
15 TO: Kenneth Wayne Long, Vikki Len Long and Tammy Ann Long, Property Owners,
16 140 E. Front Street, Apt. 5, Buttonwillow, CA 93206 and 140 Front Street, #2, Buttonwillow, CA
17 93206, respectively, and Melvin and Judy Harris, Operator, 7408 Brandt Road, #A,
18 Buttonwillow, CA 93206-9788, dba as Brandt Road Waste Tire Site at 7408 Brandt Road,
19 Buttonwillow, CA 92306:

20 PLEASE TAKE NOTICE THAT:

21 Brandt Road Waste Tire Site is a Waste Tire Facility (WTF) as defined in Public Resources
22 Code (PRC) section 42808 and is located at 7408 Brandt Road, Buttonwillow, CA 92306,
23 Assessor Parcel Number 103-010-38-5; and

24 The California Integrated Waste Management Board (CIWMB) which is now the
25 Department of Resources Recycling and Recovery (CalRecycle) has authority to act as the
26 enforcement agency for Waste Tire Facilities pursuant to PRC Section 42800 et seq., and is
27 the enforcement agency for this waste tire site. CalRecycle succeeded to CIWMB's authority
28 on January 1, 2010 pursuant to PRC section 40401(a)(1); and

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Judy Harris, Operator Brandt Road WTS, CLEANUP AND ABATEMENT ORDER

1 The Operator has stored in excess of 5,000 waste tires on said property without
2 obtaining a "Major Waste Tire Facility Permit," in violation of PRC section 42824; and

3 The County of Kern Department of Environmental Health (DEH), acting as the Waste
4 Tire Enforcement Grantee for the CIWMB inspected this site on June 19, 2009 and determined
5 that more than 500 waste tires were being stored on site; and

6 DEH referred the case to the CIWMB on September 8, 2009; and

7 The CIWMB inspected this site on December 8, 2009 and determined that more than
8 5,000 waste tires still remain on site and that a tire fire previously occurred on the site; and

9 The Operator of this site has not acquired a waste tire facility permit for this site; and

10 This site is in violation of Title 14, California Code of Regulations (CCR), section
11 18420(a) - Applicability, which requires every operator of a major or minor waste tire facility
12 (WTF) that stores, stockpiles, accumulates or discards waste tires to acquire a Permit; and

13 This site is in violation of Title 14, CCR, section 18423 – Filing of Application, which
14 requires every operator of a major or minor WTF to submit a completed Permit application; and

15 Since this site is deemed a "Waste Tire Facility" under the PRC section 42808, this site
16 is also subject to the same safety and security measures to which a permitted facility is
17 subject. These requirements are set forth in "**Exhibit A**" to this order; and

18 CalRecycle has the authority to order WTF operators who are in violation of the
19 aforementioned law to clean up waste tire piles, abate the effects thereof, or otherwise
20 remediate a case of threatened pollution or nuisance pursuant to PRC section 42845(a); and

21 CalRecycle has the authority to seek administrative penalties of not less than five
22 hundred dollars (\$500) and up to ten thousand dollars (\$10,000) for each violation of a
23 separate provision or, for continuing violations, for each day that the violation continues,
24 against any person who violates any provision of this chapter, or any permit, rule, regulation,
25 standard, or requirement issued or adopted pursuant to this chapter as provided in PRC
26 section 42850 and 42850.1(b)(2);

1 THEREFORE, PURSUANT TO PRC SECTION 42845, YOU ARE ORDERED TO:

- 2 1. Cease and desist from storing over 499 waste tires at 7408 Brandt Road,
3 Buttonwillow, CA 92306
- 4 2. Cease and Desist from creating illegal waste tire facilities pursuant to PRC
5 42808.
- 6 3. Remove all waste tires from the premises within 30 days from the date of service
7 of Cleanup and Abatement Order, in accordance with the following waste tire
8 removal schedule.

9 a. Waste Tire Removal Schedule

- 10 i. Waste tires shall be removed from the premises. CalRecycle must
11 approve the destinations of the tires to ensure that a registered waste
12 tire hauler legally transports them to an approved facility.
- 13 ii. All waste tires (whole and/or tire equivalents) shall be removed by a
14 registered waste tire hauler within 30 days from the date of service of
15 Cleanup and Abatement Order. Comprehensive Trip Log (CTL)
16 manifest form CIWMB 203 must accompany each load and copies of
17 the CTL forms must be submitted to CalRecycle within 45 days from
18 the date of service of Cleanup and Abatement Order. Failure to comply
19 with this provision may result in penalties pursuant to PRC section
20 42961.5 and 42962.

21 PLEASE TAKE FURTHER NOTICE THAT PURSUANT TO PRC SECTION 42845,
22 42850 AND 42850.1(b)(2):

23 If the above actions are not completed or complied with by the specified dates,
24 CalRecycle may petition the superior court for injunctive relief to enforce this order and for civil
25 penalties in the amount of not less than \$500 and up to \$10,000 per day for each violation
26 pursuant to PRC section 42845, 42850 and 42850.1(b)(2). Liability for civil penalties may be
27 imposed in a civil action or may be imposed administratively pursuant to PRC section 42850 et
28 seq.

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1 Pursuant to PRC section 42846.5, CalRecycle or its contractors may subsequently
2 enter your property for the purposes of abatement or remediation without your consent if such
3 an order setting liability is issued.

4 Failure to remove all of the tires by the date of service of this Cleanup and Abatement
5 Order may result in CalRecycle expending available funds to perform any clean up,
6 abatement, or remedial work required under the circumstances set forth in PRC section 42845
7 et seq.

8 You have ten (10) days from the date of service of this order to file a petition with
9 Cal Recycle raising any substantial issues that are appropriate for review. CalRecycle will
10 review the petition and respond within thirty (30) days from the date of receipt by CalRecycle.
11 Regardless of whether you file a petition, the above actions, ordered pursuant to PRC section
12 42845, must be completed as ordered.

13 If CalRecycle expends funds to perform any clean up, abatement, or remedial work,
14 CalRecycle may seek cost reimbursement from the operator or property owner pursuant to
15 PRC section 42847.

16 Moreover, funds so expended by CalRecycle constitute a lien upon the real property
17 owned by any responsible party that is subject to the remedial action, pursuant to PRC section
18 42847.5.

19 Nothing in this Cleanup and Abatement Order shall constitute or be construed as a
20 satisfaction or release from liability for any conditions or claims arising as a result of past,
21 current, or future operations of the Operator and/or Property Owner. Notwithstanding
22 compliance with the terms of this Order, Operator and/or Property Owner may be required to
23 take further actions as are necessary to protect public health or welfare or the environment.

24 CalRecycle shall not be liable for injuries or damages to persons or property resulting
25 from acts or omissions by Operator and/or Property Owner or related parties in carrying out
26 activities pursuant to this Order, nor shall CalRecycle be held as a party to any contract
27 entered into by Operator and/or Property Owner or their agent(s) in carrying out activities
28 pursuant to the Order.

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1 This Clean Up and Abatement Order does not relieve the Operator or Property Owner
2 from complying with all other local, state, and federal requirements.

3 This Clean Up and Abatement Order may only be amended in writing by an appropriate
4 representative of CalRecycle.

5 If you have any questions concerning this Clean Up and Abatement Order, you may
6 contact Vance Tracy of my staff at (951) 782-4989.

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8 Dated this 30 day of MARCH, 2010

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Ted Rauh
Program Director
Waste Compliance and
Mitigation Program
Department of Resources
Recycling and Recovery

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"Exhibit A"

During the inspection, the following violations were noted/observed:

Section 17351. Fire Prevention Measures.

a) Communication equipment shall be maintained at all facilities, if they are staffed by an attendant, to ensure that the site operator can contact local fire protection authorities in the event of fire.

(b) Adequate equipment to aid in the control of fires must be provided and maintained at the facility at all times. At a minimum the following items shall be maintained on site and in working order at all times:

- (1) One (1) dry chemical fire extinguisher;
- (2) One (1) two and one-half gallon water extinguisher;
- (3) One (1) pike pole or comparable pole at least 10 feet in length to separate burning from nonburning fires; and
- (4) One (1) round point and one (1) square point shovel.
- (5) One (1) dry chemical fire extinguisher with a minimum rating of 4A: 40BC shall be carried on each piece of fuel-powered equipment used to handle waste tires;

(c) An adequate water supply shall be available for use by the local fire authority. The water supply shall be capable of delivering at least 1000 gallons per minute for a duration of at least three hours and at least 2000 gallons per minute for a duration of at least three hours if the sum of altered plus whole waste tires exceeds 10,000.

(d) All of the requirements of subsections (b) and (c) shall apply unless the local fire authority having jurisdiction over a particular facility determines that a different requirement is necessary or adequate to meet the intent of these regulations for fire control and the protection of life and property. This may include the availability of earth moving equipment or other approved means to control the fire. Any change in, or any new, local fire authority requirements that affect the requirements in this Article shall be reported to the Board by the operator within 30 days after their effective date. Any requirements approved by the local fire authority shall be subject to Board concurrence at the time of issuance or renewal of the permit.

Section 17352. Facility Access and Security.

(a) Signs—for facilities open to the public a sign shall be posted at the facility entrance stating the name of the operator, operating hours, and site rules.

(b) Attendant—An attendant shall be present when the facility is open for business if the facility receives tires from persons other than the operator of the facility.

(c) Access—An access road to the facility must be maintained passable for emergency equipment and vector control vehicles at all times. Unauthorized access must be strictly controlled.

Section 17353. Vector Control Measures.

(a) All waste tires shall be stored in a manner which prevents the breeding and harborage of mosquitoes, rodents, and other vectors by any of the following means:

- (1) Cover with impermeable barriers other than soil to prevent entry or accumulation of precipitation; or
- (2) Use of treatments or methods to prevent or eliminate vector breeding as necessary, provided the control program is approved as appropriate and effective by the local vector control authority, if such authority exists. If no local vector

"Exhibit A"

control authority exists, the local Environmental Health Department or other local agency with authority over vector control shall approve the vector control plan. Any control program approved by the local vector control authority shall be subject to Board concurrence at the time of issuance or renewal of the waste tire facility permit.

Section 17354. Storage of Waste Tires Outdoors.

(a) Except as provided in subsection (c) waste tires shall be restricted to individual piles, which include stacks and racks of tires that do not exceed 5,000 square feet of contiguous area. Any pile shall not exceed 50,000 cubic feet in volume or 10 feet in height. Piles shall not exceed 6 feet in height when within 20 feet of any property line or perimeter fencing. Waste tires shall not be located within 10 feet of any property line or perimeter fencing. The minimum distance between waste tire piles and between waste tire piles and structures that are located either on-site or off-site shall be as specified in Table 1.

(b) Except as provided in subsection (c) waste tires shall be separated from vegetation and other potentially flammable materials by no less than 40 feet. Accessible fire lanes with a minimum width as specified in Table 1 shall be provided between tire storage units. Fire lanes shall be kept free of flammable or combustible material and vegetation. Access to fire lane(s) for emergency vehicles must be unobstructed at all times. Open flames, blow torches, or highly flammable materials, including but not limited to, tire inner tubes, are prohibited within 40 feet of a waste tire pile.

Length of Exposed Face (Ft.)	The Storage Pile Height (Ft.)		
	6	8	10
25	50	56	62
50	66	75	84
100	84	100	116
150	99	117	135
200	111	130	149
250	118	140	162

(c) All of the requirements in subsections (a) and (b) shall apply to the storage of waste tires unless, for any particular requirement, the local fire authority having jurisdiction over a particular facility determines that a different requirement is necessary or adequate to meet the intent of these regulations for the prevention of fire and the protection of life and property. Any change in, or any new, local fire authority requirements that affect the requirements in this Article shall be reported to the Board by the operator within 30 days after their effective date. Any requirements approved by the local fire authority shall be subject to Board concurrence at the time of issuance or renewal of the permit.

(d) Surface water drainage shall be directed around and away from the waste tire storage area.

(e) Waste tires at existing waste tire facilities shall not be stored on surficials with grades that will interfere with fire fighting equipment or personnel unless mitigation measures have been approved in writing by the local fire authority, or a fire safety engineer registered by the State of California. Measures established by a fire safety engineer shall be subject to approval by the local fire authority.

(f) New waste tire facilities shall not:

"Exhibit A"

- (1) Be sited in any area where they may be subjected to immersion in water during a 100-year storm unless the operator demonstrates to the Board that the facility will be designed and operated so as to prevent waste tires from migrating off site; or
 - (2) Be located on sites with grades or other physical features that will interfere with fire fighting equipment or personnel.
- (g) Tires must be removed from rims immediately upon arrival at the facility.
- (h) The site shall be designed and constructed to provide protection to bodies of water from runoff of pyrolytic oil resulting from a potential tire fire.

DECLARATION OF SERVICE BY CERTIFIED MAIL

Case Name: In the Matter of: BRANDT ROAD WASTE TIRE SITE

TPID NO: 1528927; ASSESSOR PARCEL NO: 103-010-38-5

I declare:

I am employed by the Waste Evaluation and Enforcement Branch of the Compliance and Enforcement Division of the Department of Resources Recycling & Recovery (CalRecycle). I am 18 years of age or older and not a party to this matter. I am familiar with the business practices of CalRecycle for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Compliance and Enforcement Division of CalRecycle is deposited with the United States Postal Service that same day in the ordinary course of business. On April 2, 2012 I served the attached **CLEAN UP AND ABATEMENT ORDER**, by placing a copy in a sealed envelope with certified mail delivery postage thereon to be fully prepaid, in the internal mail collection system at the CalRecycle, addressed as follows:

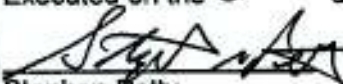
Vicki Len Long
Aka: Vickie Long Hacker
140 Poso Street
Shafter, CA 93263

Kenneth W. Long
c/o Jason's Retreat
600 Bernard Street
Bakersfield, CA 93305

Kenneth W. Long
7520 Brandt Road
Buttonwillow, CA 93206

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on the 2nd day of April, 2012, at Sacramento, California.


Stephen Petty
Declarant